



December 14, 2021

Senator Daughtry, Representative Cloutier, and members of the Commission to Develop a Paid Family and Medical Leave Benefits Program: my name is Gia Drew, and I'm here on behalf of EqualityMaine and our partners at GLBTQ Legal Advocates & Defenders, MaineTransNet, ACLU of Maine, and Maine Women's Lobby.

All of our organizations support your important work to develop a paid family and medical leave program for working Mainers. Only 15% of American workers have access to any sort of paid leave,¹ and fewer than 60% of the workforce has access to unpaid leave under the Family Medical Leave Act. Among those, many don't take leave, because they can't afford unpaid time off of work.² This leads to disruption in the workforce, negative public health outcomes, and struggling families, communities, and employers.

As you consider all the possibilities for designing and implementing a system of paid family and medical leave for Maine, we urge you to consider "family" in ways that are realistic and inclusive. The government uses the construct of family to make determinations about access to rights, resources, and benefits. Historically, family definitions in law and policy have often failed to meet the needs of families in the United States, and they frequently fall short today. The overwhelming majority of households—more than 80 percent, according to the United States Census—depart from the so-called nuclear family model of a married couple and their minor children.

LGBTQ individuals and families continue to experience the collateral consequences of narrow family definitions in local, state, and federal policy. Many LGBTQ individuals forge close relationships with friends and informal support networks—known as chosen families—often because they face rejection

¹ U.S. Department of Labor, Bureau of Labor Statistics. (2017, September). Employee Benefits in the United States National Compensation Survey: Employee Benefits in the United States, March 2017 (Tables 16 and 32). Retrieved 16 October 2017, from <https://www.bls.gov/ncs/ebs/benefits/2017/ebbl0061.pdf>

² Klerman, J., Daley, K., & Pozniak, A. (2012, September 7). Family and Medical Leave in 2012: Technical Report (p. 21). Abt Associates Publication. Retrieved 4 March 2015, from <http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>

and separation from their biological families. These relationships become paramount when needing to take time off from work to recover from illness or care for sick loved ones, and more inclusive definitions of family in workplace leave policies would make a significant difference.

To that end, attorneys at GLAD have put together a proposal for an inclusive definition of family that we have attached to our testimony. This definition recognizes the many types of families that exist, is comparable to other states with paid leave and the federal FMLA, and ties directly into current Maine law by cross-referencing the Maine Parentage Act in determining parent-child relationships - a landmark piece of family law that was sponsored by your colleague on this commission, Senator Kim Rosen. We urge you to adopt this definition in any paid leave program that you design, in order to ensure families of all kinds have the ability to take care of each other when the need arises.

Finally, you may be wondering how other states have dealt with this in their work on paid leave. New Jersey, Connecticut, Oregon, and Colorado have all adopted broad and inclusive family definitions, including chosen family, in their recently adopted paid leave laws. We urge you to uphold Maine's proud legacy of supporting families of all kinds by following their lead.

Thank you, and I'd be happy to answer any questions.

Proposed family definition

- (a) Regardless of age, an employee's child in accord with the Maine Parentage Act, Tit. 19-A, Ch. 61, a biological, adopted or foster child, a stepchild, a ~~or~~ legal ward, a child of a domestic partner, a child to whom the covered individual stands in loco parentis, or a person to whom the covered individual stood in loco parentis when the person was a minor;
- (b) An employee's parent in accord with the Maine Parentage Act, Tit. 19-A, Ch. 61, a biological, adoptive or foster parent, stepparent or legal guardian of a covered individual or covered individual's spouse or domestic partner or a person who stood in loco parentis when the covered individual or covered individual's spouse or domestic partner was a minor child;
- (c) A person to whom the covered individual is legally married under the laws of any state or jurisdiction, or a domestic partner of a covered individual as defined in section 843, subsection 7;
- (d) A grandparent, grandchild or sibling (whether a biological, foster, adoptive or step relationship) of the covered individual or covered individual's spouse or domestic partner; or
- (e) As shown by the covered individual, any other individual with whom the covered individual has a significant personal bond that is or is like a family relationship, regardless of biological or legal relationship.
- (f) Any reference to in loco parentis includes, but is not limited to those relationships within the scope of the federal FMLA.